

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
CASE NO. 1:09-CIV-05583 (JFK) (GWG)

CURTIS JAMES JACKSON, III
p/k/a 50 CENT, TOMORROW
TODAY ENTERTAINMENT INC.,
a New York corporation, and
G-UNIT RECORDS, a New York
corporation,

Plaintiffs,

v.

LEE Q. ODENAT, a/k/a "Q," d/b/a
WWW.WORLDSTARHIPHOP.COM,
WORLDSTAR HIP HOP, INC., a Nevada
Corporation; WORLDSTAR, LLC, a Delaware
limited liability company; WSHH337, LLC,
a Delaware limited liability company;
JOHN DOE LLC(S)/CORPORATION(S)

Defendants,

v.

YVES MONDESIR,

Third-Party Defendant.

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**PLAINTIFFS' MEMORANDUM OF LAW
IN SUPPORT OF MOTION TO COMPEL**

Plaintiffs, CURTIS JAMES JACKSON, III p/k/a 50 CENT, TOMORROW TODAY ENTERTAINMENT INC., a New York corporation, and G-UNIT RECORDS, a New York corporation, by and through undersigned counsel, and pursuant to Rule 37, Fed.R.Civ.P. and Local Rules 5.1 and 37.1 file this Memorandum of Law in Support of their Motion to Compel the production of documents from Defendants, and state:

1. Pursuant to Rule 34, Plaintiffs propounded discovery in support of their Supplemental Complaint upon Defendants, including Defendant WSHH337, LLC, seeking, *inter alia*, the production of documents relating to Defendants' holding and transfers of assets, income, net worth and participation in partnerships, joint ventures and the like. A copy of Plaintiffs' Request for Production to Defendant WSHH337, LLC is attached hereto as Exhibit A.

2. Defendant has provided a "privilege log," a copy of which is attached hereto, indicating that certain admittedly responsive documents are being withheld on the basis of "attorney-client and/or work product privilege" and therefore will not be produced. By this Motion, Plaintiffs challenge 4 documents listed on Defendant's privilege log. Defendant's privilege log provides, in pertinent part:

After obtaining and reviewing the file maintained at Dana Law Firm for Defendants in this action, I discovered the following documents which are responsive to Plaintiff's discovery requests, but which are subject to the attorney-client and/or work product privilege and therefore will not be produced to Plaintiffs:

- (1) Unexecuted first draft of joint venture agreement between Defendant WSHH337, LLC and a third-party – attorney client/work product privileges.
- (2) Unexecuted second draft of joint venture agreement between Defendant WSHH337, LLC and a third-party – attorney client/work product privileges.
- (3) Unexecuted first draft of operating agreement for joint venture between Defendant WSHH337, LLC and a third-party – attorney client/work product privileges.
- (4) Unexecuted second draft of operating agreement for joint venture between Defendant WSHH337, LLC and a third-party – attorney client/work product privileges.

3. Defendant has provided no factual basis or justification for the application of either the attorney-client or work product privileges to these documents. The party asserting such privileges has the burden to demonstrate their applicability. *See, e.g. Smith v. Conway Organization, Inc.*, 154 F.R.D. 73, 77 (S.D.N.Y. 1994) (“the party asserting either the attorney-client privilege or the work-product rule bears the burden of showing its applicability”).

WHEREFORE, based upon the foregoing, Plaintiffs moves the Court for the entry of an Order compelling the immediate production of the withheld documents, and granting whatever additional relief the Court deems just and proper.

Respectfully submitted,

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By: /s/Karen L. Stetson
Karen L. Stetson
Florida Bar No. 742937
Jonathan L. Gaines
Florida Bar No. 330361

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished ECF to: Scott Zarin, Zarin & Associates, P.C., 1700 Broadway, Suite 3100, New York , NY 10019 and to Jon Damon Jekielek, Law Offices of Jon Jekielek, PLLC, 347 Fifth Avenue, New York, NY 10016 this 29th day of August, 2012.

By: s/Karen L. Stetson